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December 12, 2003

Mr. Tom Glover  
Deputy Director  
Department of Water Resources  
1416 Ninth Street, Room 1115-9  
Sacramento, CA 95814

Mr. Ralph Torres  
Executive Manager-State Water Project  
Department of Water Resources  
1416 Ninth Street, Room 1601-1  
Sacramento, CA 95814

Re: Lake Oroville Relicensing

Dear Messrs. Glover and Torres:

This generation of DWR employees probably do not even know that in the November 1960 election, California voters narrowly approved the Burns-Porter Act, which authorized \$1.75 billion in general obligation bonds to build the State Water Project. Butte County was the only Northern California county that supported the bond measure. Butte County citizens voted in favor of the bond measure because of the promises made to them by DWR and other State officials of all of the benefits that would flow to the county and its citizens if Lake Oroville were constructed in the county. The local citizens strongly feel that many of those promises were not kept.

DWR came into the ALP process in June 2000 significantly unprepared and facing, as expected, a hostile and distrustful group of local citizens. Shortly thereafter, the DWR senior managers assigned to oversee the ALP process were reassigned to help oversee DWR's expanded duties during the State's energy

crisis. Throughout the first three and one-half years of the ALP process, Butte County has tried to take a focused and reasoned approach and to constructively and in a positive manner move the ALP process forward to a comprehensive settlement agreement that would be mutually beneficial to DWR, the State Water Contractors, and the local citizens.

DWR and its consultants have seemingly tried to design a perfect ALP process through consensus. While that may be a commendable goal, it has delayed the process and has increased the frustration level of the participants because of tremendous amount of time and effort that has been expended to talk about process issues and not substantive issues. The County Relicensing Team's message has been to make the process fair and transparent and to keep the process as simple as possible. The County Team members have made many other suggestions, which we thought were constructive and were intended to move the process forward. Understandably, DWR has been suspicious of the County's free advice. However, in the supposedly "Getting to Yes" interest-based ALP process, the County has been the only participant to set forth in writing its substantive interests in the ALP process. DWR has not even done this. The County's substantive interests have been refined over the years since 2001. The most recent update of those interests is attached.

The following is some more free advice from the County:

1. The first three months of the New Year will be key to the success of the ALP process. As the County Team has pointed out for the last several months, the better job the Work Groups do in screening and prioritizing Resource Actions/PM&Es, the easier job the Settlement Negotiation Group members will have doing their job. The Work Groups need to prioritize their RAs by the end of March 2004. If the Recreation Work Group needs to go to two or more meetings a month, then that should be done in January, February, and March.

2. For the last year, the County Team has pointed out the need for DWR to address RA cross-resource issues. DWR had preliminarily agreed to hold joint meetings of Work Groups to discuss and resolve those issues. DWR has yet to announce how cross-resource issues will be addressed by the end of March 2004. The Work Groups will need to consider and resolve cross-resource issues on high-prioritized RAs by the end of March.

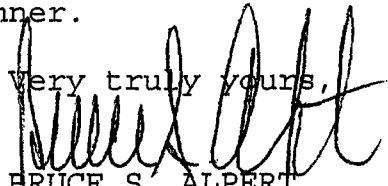
3. The first Settlement Negotiation Group meeting needs to be held in January. Since the DWR practice is just to hold one meeting per month, January, February, and March would be needed to set up the group and agree upon simple, fair, and transparent procedures to conduct the negotiations. A new facilitator should be assigned to the negotiations. Perhaps, even someone who has

had no prior involvement with this ALP process so that the facilitator can act solely as a facilitator and not be required to represent DWR's position as Patti Kroen has been unfairly required to do.

4. A major local participant complaint has been that RAs are being downgraded because the RAs lack sufficient information or data for evaluation but DWR refuses to fund Phase II studies. During the study design process, DWR agreed to fund Phase II studies when needed to obtain necessary information for RAs that had significant support, especially by the local participants. Now that Phase II studies are needed, DWR appears to be reneging on its agreement. DWR needs to announce a clear and fair policy on how Phase II studies are to be agreed upon and how funding will be authorized for those studies.

5. DWR unilaterally changed recreational trails within the FERC project boundaries to multi-use even though the change was opposed by ORAC, local equestrian groups, the County, and others. FERC compliance staff investigated the matter, wrote DWR that DWR was in violation of the FERC license by being out of compliance with the FERC-approved recreation plan, and ordered DWR to convert the trails back. Instead of complying with the FERC staff directive, DWR filed a license amendment application. DWR also refused to discuss the issue in the ALP process on the grounds that it involved the existing license and not the new license. The past is prologue. If DWR cannot comply with its existing license, what must be done to insure that DWR complies with any new FERC license? The County's Substantive Issue S-6 is "To insure that all new DWR promises are kept." We hope that DWR will comply with the FERC staff directive and then address the issue in good faith with the local participants.

The County is committed to move the ALP process forward in a constructive and proactive manner.

Very truly yours,  
  
BRUCE S. ALPERT  
Butte County Counsel

cc: ~~Bob~~ Beeler, Supervisor  
Curt Josiassen, Supervisor  
Paul McIntosh, Chief Administrative Officer

enclosure

## **Butte County's Substantive Interests**

S-1. For DWR to share the water and power wealth from the Lake Oroville Facilities with the local community and not just with Southern California and other export urban and agricultural areas ("Local Community Justice"):

a. By developing a new comprehensive recreation plan, including new facilities and activities both at the lake and below the dam and fish and wildlife improvements.

b. By supporting and funding local economic development.

c. By improving Butte County's State Water Project water entitlement benefits and improving the flexibility of use of the County's entitlement.

S-2. For DWR to provide a quality, multi-faceted recreational experience for project users with responsive, effective, and accountable recreation resource management.

S-3. For DWR to rectify past, present, and future project impacts to local government infrastructure and services, recreation, fish and wildlife, and agricultural operations and to comply with applicable land use, environmental, and other local laws.

S-4. For DWR to protect local historic cultural resources and to rectify past, present, and future project impacts to those resources.

S-5. To obtain redress for what the local community strongly considers past DWR broken promises.

S-6. To insure that all new DWR promises are kept.